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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 19th July, 2019

+ CrI.M.C. 231/2016

STATE

..... Petitioner

Through: Mr. Rajesh Mahajan, ASC for
the State

versus

H.C. SANJIV MALIK

..... Respondents

Through: Mr. Naresh Kaushik, Advocate
with Mr. Puneet Ahluwalia,
Mr. Tapasvi Raj & Mr. Vibhuti
Tyagi, Advocates

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

CrI.M.A. 4788/2019 (for recalling of order dated 22.11.2018),
CrI.M.A. 4789/2019 (stay) and CrI.M.A. 4790/2019 (exemption)

1. The duty of consideration of applications for licence for possession of arms and ammunition under the Arms Act, 1959, read with rules framed there under, is the domain of police department, the task having been assigned during the relevant period to Deputy Commissioner of Police (DCP/licensing), he being assisted by Assistant Commissioner of Police (ACP/licensing).

2. It is stated that one Mahender Gupta (first accused) had been granted arms license, its validity, however, being restricted to territory

of Delhi only. He statedly was desirous of getting it extended for “*All India*” use. The arms license of Mahender Gupta was valid upto 04.04.2005. He approached the office of DCP/ licensing with a request for change of residential address. During scrutiny of the said application, it was noticed that the endorsement on the said arms license about extension of its area validity to “*All India*”, purportedly under the signatures of Mr. S.K. Pant, ACP/licensing, was forged. There was no corresponding record in the said office pertaining to the said entry dated 26.12.2002. It was found that applications had been earlier made for such extension in 2001 and 2002 but rejected by the government. The internal inquiry included the said Mahender Gupta being called and questioned, this statedly bringing out the involvement of the applicant he having been earlier posted in the licensing branch for certain period.

3. On the complaint of DCP (Headquarters), first information report (FIR) No.338/2004 was registered by Police Station Defence Colony for investigation into acts of commission and omission which constituted *prima facie* offences punishable under sections 471/120B of the Indian Penal Code, 1860 (IPC). Upon conclusion of the investigation, report (charge-sheet) under section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was submitted in the court of Metropolitan Magistrate. The applicant, and the said Mahender Gupta, were summoned as accused.

4. It is against the above backdrop that the Metropolitan Magistrate considered the question of charge. By her order dated

05.03.2015, charge was found made out for offences under sections 468/471 IPC against Mahender Gupta, he having been put on trial accordingly. However, the Metropolitan Magistrate was not satisfied as to sufficiency of the evidence made available so as to put the applicant on trial. She noted, *inter alia*, that the report of forensic science laboratory (FSL) had not given any definitive opinion as to the authorship of the fabricated entry. In her opinion, it was a case based merely on disclosure statements which did not have evidentiary value.

5. The order of discharge in favour of the applicant was assailed by the State in the court of sessions by Criminal Revision No.195/2015. The additional sessions judge (ASJ) upheld the view taken by the Metropolitan Magistrate, and declined to interfere, rejecting the revisional challenge by order dated 04.08.2015, *inter alia*, noting that as per the evidence the prime accused Mahender Gupta had come in contact with the petitioner upon he being introduced to him by Head Constable Ramesh. He also noted that the evidence showed that the intimation about “*All India*” endorsement had been communicated to the prime accused Mahender Gupta by Head Constable Surender Tomar against whom no cognizance had been taken by the Metropolitan Magistrate, this bringing on record contradictory versions of Head Constable Ramesh and prosecution witness Anil Gupta (brother of prime accused Mahender Gupta).

6. Feeling aggrieved, the State approached this court by the petition at hand invoking the power and jurisdiction of this court under

section 482 Cr.P.C. submitting that the orders passed by the courts below are perverse, ignoring the crucial evidence on record.

7. The petition came up for hearing on 22.11.2018 when the applicant (respondent in the said petition) was represented by Mr. Dhan Mohan, Advocate. The petition and the applications filed therewith were disposed of taking note of the background facts and submissions leading to necessary directions as under:-

“On the basis of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C) submitted upon conclusion of investigation of first information report (FIR) no. 338/2004 of police station Defence Colony involving offences punishable under Sections 420/468/471/120 B IPC, the respondent herein was summoned, along with others. When the case reached the stage of consideration of charge, his submissions were that there was no prosecutable evidence showing his complicity. The Metropolitan Magistrate accepted the said arguments and, by order dated 05.03.2015, directed that he stood discharged, charge being framed against co-accused Mahender Gupta for offences under Sections 468/471 IPC. The State challenged the said order in the court of Sessions by Crl. Rev. 195/2015. But, the said challenge was repelled as the revision petition was dismissed by order dated 4.8.2015. Thus, the present petition was brought before this Court under Section 482 Cr.P.C. seeking to assail the orders of the courts below, the prime contention being that substantive evidence in the form of statements of three witnesses namely Anil Gupta, Dinesh Gupta and Ramesh besides the opinion of Government Examiner of Questioning Documents (GEQD), Kolkata confirming the forged document to be in the handwriting of the respondent has been overlooked.

When the matter was argued before this Court on 07.08.2018, the respondent took the position that no material in the nature of opinion of GEQD, Kolkata had

been placed before the trial court. For scrutiny of the said submission, it was directed that the trial court record be called for.

A copy of the trial court record has been placed before this Court and it confirms the submission of the respondent, as noted above, were factually not correct. The report dated 21.02.2017 of GEQD, Kolkata, supporting the case of the prosecution that the forgery was in the hand of the respondent is part of the material which was before the court of Metropolitan Magistrate. It is clear the same has been glossed over by the revisional court as there is no reference to it in the impugned order.

After some hearing, the counsel for the respondent, having taken instructions, submitted that he concedes that on the available material, including the GEQD opinion, and the statements of the above-mentioned witnesses, charge is made out for the offences under Sections 120 B read with Sections 420/468/471 IPC against the respondents. He, thus, fairly conceded that the petition may be allowed and the impugned order may be set aside with suitable consequential directions for follow up.

Having perused the available material including in the above nature, this Court accepts the prayer of the prosecution (the State) that the trial court as well as the revisional court have fallen into error by actually not going into the material in entirety, the order of discharge being unjust, improper and resulting in serious miscarriage of justice, particularly against the above backdrop that co-accused Mahender Gupta has already faced trial and been found guilty.

In the above facts and circumstances, the petition is allowed. It is directed that the trial court shall frame charges against the respondents for offences under Sections 120 B read with Sections 420/468/471 IPC and proceed further in accordance with law.

The trial court will take up the case further in light of the above directions, on 20th December, 2018. The

respondent is directed to present himself in person with counsel on the said date. Needless to add, he shall furnish fresh bail bonds for regulating his presence in the further proceedings.

It may also be added that nothing observed here will be treated as final expression of opinion on merits.

The petition and the applications filed therewith are disposed of in above terms.”

8. The applicant assailed the above mentioned order before the Supreme Court by Special Leave to Appeal (Crl.) No.1403/2019 which was dismissed by order dated 15.02.2019 reading thus:-

“The High Court allowed the petition under Section 482 Cr.P.C. filed by the petitioner and reversed the order of discharge in favour of the petitioner.

A perusal of the impugned order indicates that there was a concession made by the counsel appearing for the petitioner in the High Court that the petition filed under Section 482 Cr.P.C. by the State can be allowed and further directions may be given to the Trial Court to proceed with the matter.

Mr. Naresh Kaushik, learned counsel appearing on behalf of the petitioner submits that concession was made by the counsel without instructions from the petitioner.

We are unable to accept the statement of the learned counsel for the petitioner in view of the observation made by the High Court in the impugned judgment. The petitioner is at liberty to approach the High Court by filing a petition for recall of the order on the ground that the concession was made by his counsel without instruction.

The Special Leave Petition, is accordingly dismissed. Pending application(s), if any, stand disposed of.”

9. It is after dismissal of the special leave petition that the applicant (respondent in main petition) moved the application (Crl.M.A.4788/2019) at hand seeking recall of the order dated 22.11.2018, it being accompanied by two applications, *i.e.*, Crl.M.A.4789/2019 (for stay) and Crl.M.A.4790/2019 (for exemption).

10. In the application for recall of the order dated 22.11.2018, the applicant has, *inter alia*, stated that Mr. Dhan Mohan, Advocate previously representing him had not been instructed to give any such concession as had come to be recorded pointing out that he himself was not present in the court during the proceedings on the said date. Submitting that Mr. Dhan Mohan Advocate has committed professional misconduct by making such unauthorized submissions, the new counsel engaged by him informed the court that he was in the process of lodging a complaint against the said counsel. On 09.04.2019, the court was informed that a complaint had been made against the previous counsel on 13.03.2019. It was, however, brought out at the hearing that the Bar Council has not taken any action on the said complaint.

11. The applicant does not dispute that Mr. Dhan Mohan, Advocate had made submissions conceding that on the available material, including the opinion of government examiner of questioned document (GEQD), and also the statements of the witnesses, charge was made out for offence under section 120-B read with section

420/468/471 IPC against him. His grievance is Mr. Dhan Mohan, Advocate had not taken formal instructions from him in this regard.

12. The fact remains that when the matter was taken up on 22.11.2018, elaborate arguments were made in the course of which statements of three crucial witnesses including Anil Gupta, Dinesh Gupta and Ramesh were referred, this in addition to the opinion of GEQD, Calcutta confirming the forgery.

13. In view of this court, the prayer for recall of the order dated 22.11.2018 on the specious plea that the counsel had no authority to concede is only an attempt to seek a revisit to the issues which were considered by the court on 22.11.2018. Such an attempt and approach cannot be approved of.

14. The conduct of the legal practitioner is regulated by the Bar Councils constituted in terms of the Advocates Act, 1961. The Bar Council of India has framed detailed rules in exercise of its rule making power under the said law. The said rules include a separate Chapter on '*Standards of Professional Conduct and Etiquettes*'. The statutory rules declare unequivocally that an advocate "*shall not consider himself as a mere mouthpiece of the client*".

15. Almost a century ago, in *Emperor vs. Rajani Kanta Bose*, AIR 1922 Cal 515, it was held that a lawyer is more than a "*mere agent or servant*" of his client, he also being an "*officer of the court*" and as such he owes the duty of "*good faith*", his high vocation being "*to inform the court as to the law and facts of the case and to aid it to do justice by arriving at correct conclusions*". This position has been the

consistent view of the courts over the last several decades and reference may be made, with advantage, to the following observations of the Supreme Court in *Re: Rameshwar Prasad Goyal, Advocate*, (2014)1SCC 572:

*“10. Lawyers play an important part in the administration of justice. The profession itself requires the safeguarding of high moral standards. As an officer of the court the overriding duty of a lawyer is to the court, the standards of his profession and to the public. Since the main job of a lawyer is to assist the court in dispensing justice, the members of the Bar cannot behave with doubtful scruples or strive to thrive on litigation. The lawyers must remember that they are equal partners with Judges in the administration of justice. If the lawyers do not perform their function properly, it would be destructive of democracy and the rule of law. (Vide *Manak Lal v. Prem Chand Singhvi*, AIR 1957 SC 425, *Jamilabai Abdul Kadar v. Shankarlal Gulabchand*, (1957) 2 SCC 609; AIR 1975 SC 2202, *Bar Council of Maharashtra v. M.V. Dabholkar*, (1976) 2 SCC 291 : AIR 1976 SC 242, *S.P. Gupta v. Union of India*, 1981 Supp SCC 87 : AIR 1982 SC 149, and *Sheela Barse V. State of Maharashtra*, (1983) 2 SCC 96 : 1983 SCC (Cri) 353: AIR 1983 SC 378.”*

(emphasis supplied)

16. As far back as in 1925, an Article titled ‘The Lawyer as an officer of the Court’ was published in Virginia Law Review, Vol. 11, No. 4 (Feb. 1925) pp.263-77, lucidly setting down what is expected from lawyer thus :-

“The duties of the lawyer to the Court spring directly from the relation that he sustains to the Court as an officer in the administration of justice. The law is not a mere private calling but is a profession which has the distinction

of being an integral part of the state's judicial system. As an officer of the court the lawyer is, therefore bound to uphold the dignity and integrity of the court; to exercise at all times respect for the Court in both words and actions; to present all matters relating to his client's case openly, being careful to avoid any attempt to exert private influence upon either the judge or the jury; and to be frank and candid in all dealings with the Court, "using no deceit, imposition or evasion", as by misreciting witnesses or misquoting precedents. "It must always be understood", says Mr. Christian Doerfler, in an address before the Milwaukee County Bar Association, in December, 1911, "that the profession of law is instituted among men for the purpose of aiding the administration of justice. A proper administration of justice does not mean that a lawyer should succeed in winning a lawsuit. It means that he should properly bring to the attention of the Court everything by way of fact and law that is available and legitimate for the purpose of properly presenting his client's case.

His duty as far as his client, is concerned is simply to legitimately present his side of the case. His duty as far as the public is concerned and as far as he is an officer of the Court is to aid and assist in the administration of justice.

(emphasis supplied)

17. The afore extracted views were quoted with approval by Justice Vivian Bose, J. in 'G' a Senior Advocate of the Supreme Court, in re: AIR 1954 SC 557.

18. An earlier decision of the Supreme Court, reported as *Mohit Chowdhary, Advocate*, (2017) 16 SCC 78, had quoted the articulation of the relevant principles on the subject as expounded by *Crampton, J. in R. v. O'Connell*, 7 Irish Law Reports 313 thus:

“The advocate is a representative but not a delegate. He gives to his client the benefit of his learning, his talents and his judgment; but all through he never forgets what he owes to himself and to others. He will not knowingly misstate the law, he will not willfully misstate the facts, though it be to gain the case for his client. He will ever bear in mind that if he be an advocate of an individual and retained and remunerated often inadequately, for valuable services, yet he a prior and perpetual retainer on behalf of truth and justice and there is no Crown or other licenses which in any case or for any party or purpose can discharge him from that primary and paramount retainer.”
(emphasis supplied)

19. It is apposite to also refer to the following views expressed by Hon. Marilyn Warren AC in a speech delivered on the subject *“The duty owed to the Court – Sometimes Forgotten”* at the Judicial Conference of Australia Colloquium, Melbourne on 09.10.2009 (accessed at www.austlii.edu.au):-

“The lawyer’s duty to the court is an incident of the lawyer’s duty to the proper administration of justice. This duty arises as a results of the position of the legal practitioner as an officer of the court and an integral participant in the administration of justice. The practitioner’s role is not merely to push his or her client’s interests in the adversarial process, rather the practitioner has a duty to ‘assist the court in the doing of justice accordance to law.

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The conflict between the duty to the court and to the client had been described by Mason CJ as the ‘peculiar feature of counsel’s responsibility’. The Chief Justice also observed that the duties are not merely in competition. They do not call for a balancing act. They actually come

into collision and demand that, on occasion, a practitioner 'act in a variety of ways to the possible disadvantage of his client ... the duty to the court is paramount even if the client gives instructions to the contrary.'

(emphasis supplied)

20. The advocates are an integral part of the judicial system in our country. They not only provide legal aid and assistance to the litigants and parties involved in a *lis* but also assist the court in reaching just decisions and dispensing fair justice. In the adjudicatory process, it is through them that the version of each side is presented and supported by the evidence that may be adduced before the Court. In an adversarial procedure, the Court is a neutral empire expected to adjudicate at the conclusion of proceedings, aided and assisted by the counsel for the parties. In this scheme of things, the advocate on each side presents his facts, as instructed by the party, which has engaged him or her. But this does not mean that he is only a spokesperson, or mouthpiece, for the party he represents before the Court. There is no employer - employee relationship between the counsel and the litigant. The status of the counsel goes beyond that of a mere agent of the litigant. He is first and foremost an officer of the Court. He is in service, not of the party, but in the cause of justice, the pursuit of which goal is the prime objective of the exercise that is undertaken by the judicial organ.

21. Whilst there can be no two opinions about the proposition that an advocate must truly and faithfully present the facts which have been brought to his notice by the party that has engaged him, he

having no authority in law to twist facts or to create fictional facts, not the least to concede to the existence of facts which are disputed by the party which has instructed him to appear on its behalf in the Court. But this discipline does not bind the advocate in the matters wherein he is called upon, by his duty to the Court, to render aid on questions of law. He is expected by the Court to be fair in assisting and reaching correct conclusions as to the application of the correct law.

22. It is a matter of usual practice and experience in the courts that the counsel assisting in the judicial process often fairly concede to the correctness of the statements of facts, or admit existence of certain facts which may turn out to be detrimental to the cause espoused by their client. It is often also the scene in the courts that the counsel give oral undertakings on behalf of their clients, while making submissions “at bar” adding that they have been “instructed” to give such undertaking. The courts repose trust and faith in the word of the counsel who enjoys the status of an officer of the court and act upon such concessions, admissions, undertakings etc while taking decisions or passing judicial directives. The edifice of the adjudicatory system in the courts rests on the integrity of the word of the counsel because it is the hallmark of the institution, also for the added reason that under the contract between the counsel and the party, as represented in the *vakalatnama* filed in the Court, the latter usually confirms the understanding that he would “ratify” what is presented on its behalf in the court by the former (unless there is explicit instruction to the contrary), with which the litigant is bound.

23. Pertinent to quote here the following observations of the Supreme Court in *Himachal Pradesh Scheduled Tribes Employees Federation and Anr. Vs. Himachal Pradesh Samanaya Varg Karamchari Kalayan Mahasangh and Ors.*, (2013) 10 SCC 308 :-

“31. When a statement is made before this Court it is, as a matter of course, assumed that it is made sincerely and is not an effort to overreach the Court. Numerous matters even involving momentous questions of law are very often disposed of by this Court on the basis of the statement made by the learned counsel for the parties. The statement is accepted as it is assumed without doubt, to be honest, sincere, truthful, solemn and in the interest of justice. The statement by the counsel is not expected to be flippant, mischievous, misleading and certainly not false. This confidence in the statements made by the learned counsel is founded on the assumption that the counsel is aware that he is an officer of the Court.”

24. A trend unfortunately seems to be growing and developing in the courts where, having suffered some order possibly on account of concession, admission or undertaking given or tendered on its behalf by the counsel in the court, the party in question makes an about-turn and seeks to wriggle out of its effect by taking the position either that the counsel had acted unauthorisedly or without instructions or that he had colluded with the opponent to present twisted facts. The result of such endeavour only adds to the complexity of the litigation, giving rise to fresh round of proceedings before the court thereby burdening it even more.

25. It must be clarified here that this Court does not mean to say that there can never be a situation where a counsel may have

committed misconduct by presenting wrong facts with some oblique motive. There have been numerous instances of this kind though the lament is that the responses of the disciplinary body *vis-à-vis* the lawyers in such cases have appeared to be rather slow. But then, the dishonest tendencies to put blame on the previous counsel by wrongly accusing him of having acted unauthorisedly only to force an otherwise impermissible “review” of an adverse order must be curbed.

26. It is trite that a judicial order, particularly representing the record of proceedings and the correctness of facts incorporated therein with regard to what transpired in the court, cannot generally be questioned. It must be acknowledged, however, that there is no guarantee that there can never be an error in incorporation of facts in the court proceedings. The possibility of wrong notation of facts creeping in the court proceedings does exist. But then, the jurisprudence in this regard which has evolved over the years insists that the error be brought to the notice of the court accuracy of the proceedings recorded by which are questioned, such request expected to be made at the earliest opportune moment of time.

27. In the case at hand, mercifully, the applicant (respondent in the main petition) does not dispute that the counsel engaged by him earlier had given the concession before this Court that the charge for the offences mentioned earlier was made out on the material which had been presented by the investigating agency. His contention is that he had not given any authority to the counsel to make such a concession. This is where the application for recall is unacceptable. The previous

counsel is not accused of having made any wrong concession on facts. He had only conceded that charge was made out for the offences mentioned earlier on the basis of evidence which had been brought before the court of magistrate. Such concession was not a concession of wrong facts. It was a concession made on a point of law. While making such concession, the counsel was assisting as an officer of the court. He was only discharging his responsibility to the court so that it applied the correct legal principles. Such concession was not contingent upon “instructions” or “authorization”.

28. Be that as it may, since the matter was virtually re-argued, it needs to be observed here that notwithstanding the concession given by his previously engaged counsel, the result of the petition as directed in the order dated 22.11.2018 cannot be different.

29. In the present proceedings, it is the consideration of the case by the criminal court at the stage of charge which is brought in question. The principles to be borne in mind in this regard are well settled and reference may be made conveniently to the following observations of the Supreme Court in *Sajjan Kumar vs. CBI*, (2010) 9 SCC 368, wherein law on the subject of charge was summarized thus:-

“21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the

accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the

trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(emphasis supplied)

30. The investigation has brought out evidence showing that during the questioning the prime accused Mahender Gupta (who, it is stated, has already been convicted) had mentioned the name of one Anil Kumar, an acquaintance, through whose contact he (Mahender Gupta) had come to be in touch with the applicant. In his statement under section 161 Cr.P.C. Anil Gupta had disclosed that Head Constable Ramesh was well known to him and, to his knowledge, worked in the licensing branch in the past. As per his version, it was at the instance of Head Constable Ramesh that the license was handed over by the prime accused (Mahender Gupta) to the applicant for securing the endorsement through his liaison with Head Constable Surender Tomar who was working in the said branch at the relevant point of time. This version finds confirmation in the statement under section 161 Cr.P.C. of Dinesh Gupta (brother of Mahender Gupta) and also in the statement of Head Constable Ramesh. In fact, Head Constable Ramesh would go to the extent of saying that the applicant had told him 2-3 days after the handing over of the license to him that the same had been turned into “*All India*” license. The statement of Anil Gupta further reveals that the applicant himself had come to his shop to hand over the license with “*All India*” endorsement.

31. From the above evidence gathered during the investigation the facts which stand out against the applicant are that though he himself

was not posted in the licensing branch, he (having been earlier posted there) was (even otherwise) acquainted with Head Constable Surender Tomar. It is he (the applicant) who had collected the arms license for the extension of area validity and it is he who had returned the same with endorsement of area validity ("*All India*") added thereupon. The evidence also clearly shows that the endorsement in question was forged and fabricated. It may be that the allegation of the applicant being the author of the forgery is based primarily on opinion of GEQD. But then, the endorsement was an act of forgery rendering the document in question a forged document is part of the gravamen based on substantive material.

32. The arms licence secured earlier by prime accused (Mahender Gupta) was valid only for territory of Delhi. The false endorsement showing it to be valid for "*All India*" renders it forged and fabricated document. *Prima facie*, the intent of the licence holder would be to use the said document by falsely representing to those who may be concerned that the document was valid outside Delhi, knowing full well that this was not the factual position. The endorsement on the document, *prima facie*, came to be made when it was in the possession of the applicant (respondent in main petition). If the prosecution is able to prove the above-mentioned facts, it would be his onus to explain as to in what circumstances the false endorsement on the license came to be made. From the above, a grave suspicion arises as to existence of criminal conspiracy and commission of above mentioned offences and he being a party thereto.

33. From the above facts, and in the circumstances, the involvement of the applicant (respondent in main petition) in the criminal conspiracy punishable under second 120-B IPC for commission of offences under sections 420/468/471 IPC is *prima facie* brought out. Thus, there is no good ground as to why the conclusion and directions in the order dated 22.11.2018 be recalled. The contentions raised to seek reconsideration are unacceptable and the applications at hand are dismissed with costs of Rs.50,000/-, to be deposited with concerned District Legal Services Authority.

34. The trial court will ensure due compliance with the directions in the order dated 22.11.2018 and also regarding deposit of costs.

35. The trial court record be returned with a copy of this order.

R.K.GAUBA, J.

JULY 19, 2019

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